

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

In Re:

APPLICATION OF CELLCO PARTNERSHIP	:	DOCKET NO. 332
D/B/A VERIZON WIRELESS FOR A	:	
CERTIFICATE OF ENVIRONMENTAL	:	
COMPATIBILITY AND PUBLIC NEED FOR	:	
THE CONSTRUCTION, MAINTENANCE AND	:	
OPERATION OF A TELECOMMUNICATIONS	:	
FACILITY IN WASHINGTON, CONNECTICUT	:	AUGUST 9, 2007

POST HEARING BRIEF

The Party Town of Washington ("Town") is opposed to the application of Cellco Partnership d/b/a Verizon Wireless ("Cellco") for a certificate to construct a telecommunications tower and related facility ("tower") on one of two locations in the Town of Washington. In support thereof, the Town asserts that the application should be denied for the following reasons:

1. Pursuant to Connecticut General Statutes § 16-50p(b)(1), the Applicant has failed to adequately demonstrate that the need for this tower cannot be met through the shared use of other towers which currently exist or are proposed.

2. The Application and supplemental information provided by Cellco is inadequate and incomplete.

In the alternative, assuming arguendo that the Siting Council renders a decision in favor of the application, the Town is requesting the following terms and conditions:

1. That the Council reject the Waldron since, of the two alternative sites proposed, it is the least compliant with the Town's Zoning regulations and Plan of Conservation and Development. In addition, the Waldron site, according to the information submitted by Cellco, provides less coverage than the Underwood site.

2. That the Tower be a slender monopole with flush mount antennas, 150 feet in height.

3. That Cellco monitor the Tower on an annual basis to determine that it remains in compliance with all FCC requirements for radio frequency emissions and supply that data to the Town.

I. THE APPLICANT HAS FAILED TO DEMONSTRATE THAT THE NEED SOUGHT TO BE ADDRESSED BY THIS TOWER CANNOT BE ADDRESSED AT OTHER FACILITIES.

The Application has been submitted to the Council on March 29, 2007 pursuant to Chapter 277a, § 16-50g et seq. of the Connecticut General Statutes, as amended, and § 16-50j-1 et seq. of the regulations of Connecticut State Agencies, as amended.

The stated purpose of the application is to close what Cellco describes as a "significant gap" in coverage between its existing New Milford East cell site and Litchfield SW cell site. Pursuant to Connecticut General Statutes § 16-50p(b)(1), "Prior to granting an applicant's certificate for a facility... the council shall examine... (A) The feasibility of requiring an applicant to share an existing facility... within a technically

derived search area of the site of the proposed facility, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns." Moreover, Connecticut General Statutes § 16-50p(b)(2) provides that, "[w]hen issuing a certificate for a facility... the council may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the unnecessary proliferation of such facilities in the state." The Town asserts that this application should be denied because it will result in the unnecessary proliferation of telecommunications towers in the search area.

The towers that are the subject of Cellco's application are intended to address the claimed need for cellular service along the Route 202 corridor in the Town. The Underwood site, according to Cellco's propagation maps, would provide approximately 3.5 miles of coverage along Route 202, which runs in a northeast direction through the Town from the New Milford border to the Litchfield border. Optasite has also filed an application for the construction of a telecommunications facility to be located at 425 Litchfield Road (Route 202) in New Milford, a short distance away from the Border with the Town. The Council took administrative notice of this application at the July 10 hearing. (Tr3 p. 12). According to the testimony of David Crotty, Cellco's radio frequency engineer, the overlap of coverage between the facilities would exceed Cellco's stated preference for an overlap between facilities in the amount of 10%. (Tr1

pp. 45 and 58). This overlap in coverage mirrors the overlap that would be obtained from a facility that Cellco anticipates will be located at the Northville Fire Station, also on Route 202 in New Milford.

Cellco has acknowledged that if the proposed tower were to be constructed, there would still be coverage gaps to the northeast along Route 202 in the Town, prior to reaching the coverage afforded by a facility located in Litchfield. As a result, it is reasonable to anticipate that an additional application for a facility will be filed by Cellco or some other provider to construct a facility which would address the gap to the northeast of the proposed towers. Indeed, testimony at the hearing established that, despite the coverage that would be provided if this application were granted, Cellco is looking at additional sites in the town and in the neighboring Town of Warren. (Tr1 pp. 73-75) As a result of the excessive coverage overlaps which will exist to the southwest of the proposed tower, and the need for additional coverage to the northeast, the Town believes that the placement of a facility at either of the proposed sites will result in the unnecessary proliferation of facilities in violation of the above quoted statutes.

There is significant and ample evidence in the record as to the scenic rural beauty of the Town. First Selectman Richard Sears testified that "[t]he Town of Washington Board of Selectman and the Conservation Commission have concerns about the impact of this prospective cell tower on the health, safety and property values

of Marbledale residents and on the rural character, viewsapes and natural resources of the Route 202 corridor." In his testimony, Mr. Sears highlighted the goals of the Zoning regulations with respect to telecommunications towers, which include, 1) preserve the character and appearance of the Town while simultaneously allowing adequate Personal Wireless Services to be developed, 2) protect the rural, scenic, historic, environmental, and natural or man-made resources, 3) provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of cell towers and facilities, 4) minimize the total number and height of Towers throughout the community, 5) locate Towers so they do not have negative impacts on the general safety, welfare, and quality of life of the community, 6) require owners of such Towers to configure them so as to minimize and mitigate their adverse visual impact, etc.

The Town believes that the proliferation of cellular communications facilities directly conflicts with these concerns and goals and as a result, it urges the Council to exercise its jurisdiction in this matter to require that Cellco share the Optasite facility.

II. THE APPLICATION IS INCOMPLETE.

Cellco has acknowledged that its contention that there is a need for a tower at either of the two proposed sites is largely based on propagation models rather than actual empiric data obtained by way of drive testing. Indeed, it acknowledged that no

drive testing was performed. (Tr1 pp. 19-27). Through the testimony and other evidence it has submitted, Cellco has alternately claimed that there is currently no cellular coverage in the Town of Washington (Response to Town's Interrogatory #3), claimed that currently coverage in the Town exists but that it is a result of "hill topping" or roaming (Response to Siting Council's Interrogatory #12), and provided coverage maps that clearly demonstrate that currently some coverage exists. (Tr1 p.18). The lack of any empiric evidence makes it impossible to determine which of the above claims is accurate or whether, as is suggested by the anecdotal testimony and a Town wide survey, current cellular coverage in the Town is far more extensive than any of the representations heretofore made by Cellco. As a result of the inconsistent and conflicting claims of Cellco and as a result of the complete lack of drive test data, the Town urges the Council to deny the application and to require Cellco to perform the scientific testing necessary to establish that their needs in this location are not currently being met or cannot be otherwise met through co-locating at other towers in the area.

In addition, Walter Cooper, the Town's radiofrequency expert, in his written testimony dated July 3, 2007 enumerated several deficiencies in the information supplied by Cellco in support of their application. Cellco has failed to supply the Town and the Council with their calculations regarding RF radiation compliance, has failed to

provide a gap map, and has failed to provide dropped call data. As a result, the Town urges the Council to deny the application.

III. CONDITIONS REQUESTED BY THE TOWN IN THE EVENT THE APPLICATION IS APPROVED

Assuming arguendo that the Council determines that the application should be approved, the Town urges that the Council's approval contain the conditions and grounds set forth herein.

A. The Underwood site

First Selectman Richard C. Sears testified that it was the Town's position that the location of the tower at either site was inconsistent with the zoning regulations of the Town and with Town's Plan of Conservation and Development. He also testified that the location of the Tower at the Waldron site presented a greater magnitude of inconsistency with the regulations and plan in that it was closer to homes and residential development. As a result, as between the two locations, the Town's opposition to the Waldron site is stronger.

B. Monopole with Flushmount Antenna

The applicant has proposed a pine tree type of tower. The Town prefers a monopole with flushmount antenna. If, however, prior to any construction further advances are made in the telecommunications industry to create poles and structures

which would more naturally blend in to the rural surroundings of the Town than either a pine tower or monopole, the Town would like to be able to consider these options.

C. Monitoring

At the hearing, Cellco acknowledged that it would have no objection as a condition of the approval that it annually monitor the tower to ensure that it continues to comply with all the federal standards fro RF emissions. (Tr1 p. 56). The Town would urge the Council to adopt this condition as part of any approval and to require that the results of this annual monitoring be forwarded to the Office of the First Selectman of the Town.

Respectfully submitted on behalf of
the Town of Washington

By 

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CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing has been mailed on the date herein, postage prepaid, to:

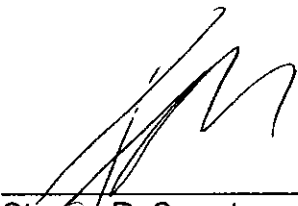
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